

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 10, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP1121

Cir. Ct. No. 1994CF942994

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

RUFUS PATTERSON WEST,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
DENNIS P. MORONEY, Judge. *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¶1 PER CURIAM. Rufus Patterson West, *pro se*, appeals the circuit court's order denying his collateral postconviction motion brought pursuant to WIS. STAT. § 974.06. The issue is whether West's motion, which raises eighteen issues, is barred pursuant to *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185,

517 N.W.2d 157, 163–164 (1994). We conclude that it is barred. Therefore, we affirm.

¶2 After a jury trial, West was convicted of armed robbery, while concealing his identity, and felon in possession of a firearm. West’s appointed appellate lawyer filed a no-merit appeal. West filed a response. We concluded that there were no arguably meritorious issues, addressing seven potential issues explicitly in our decision. West petitioned the supreme court for review, but the supreme court denied the petition.

¶3 In 2003, West filed a collateral postconviction motion, raising twelve issues. The circuit court denied the motion on the grounds that it was procedurally barred by *Escalona-Naranjo*. West appealed the circuit court’s order. We affirmed. West petitioned the supreme court for review, but the supreme court denied the petition. In 2005, West filed a second collateral postconviction motion, arguing that he was entitled to relief based on new case law, *State v. Dubose*, 2005 WI 126, 285 Wis. 2d 143, 699 N.W.2d 582. The circuit court denied the motion, ruling that *Dubose* did not apply retroactively. We affirmed, concluding that even if we assumed that *Dubose* applied retroactively and assumed that it applied to West’s case, West would not be entitled to relief. Again, West petitioned the supreme court for review, but the supreme court denied the petition.

¶4 In 2006, West filed a petition for writ of *habeas corpus* in this court. We denied the petition. West moved for reconsideration. We denied the motion. West petitioned the supreme court for review. The supreme court denied the petition. In 2013, West filed the current postconviction motion. The circuit court again concluded it was procedurally barred by *Escalona-Naranjo*.

¶5 While the postconviction procedures of WIS. STAT. § 974.06 allow a defendant to attack his conviction after the time for a direct appeal has expired, there is a limitation. A claim that could have been raised on direct appeal or by prior motion is barred from being raised in a subsequent postconviction motion absent a sufficient reason for not raising the claim earlier. *See* § 974.06 and *Escalona-Naranjo*, 185 Wis. 2d at 185, 517 N.W.2d at 163–164. “Successive motions and appeals, which all could have been brought at the same time, run counter to the design and purpose of [§ 974.06].” *Ibid.* This motion is West’s fourth challenge to his conviction since his direct appeal. Therefore, his claim is procedurally barred under *Escalona-Naranjo*.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

